IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1085 OF 2006

Viren Bhatia and others ...Appellants
vs.
The Board of Trustees of the Port
of Bombay and others ...Respondents.

Mr.J.G.Reddy for the Appellant
Mr.Makhija i/b M/s.Mulla & Mulla for Respondent No.1.

CORAM: A.S.OKA, J.
DATE : JANUARY 25,2007.

P.C.:

1. When the Application for stay appeared on board, with the consent of the learned Counsel appearing for contesting parties, the Appeal is taken up for admission.

2. The challenge in the First Appeal is to the Judgment and Order dated 4th October 2005 passed by the learned Judge of the City Civil Court, Mumbai, on a Chamber Summons taken out by the Respondent No.1 herein under the provisions of Order XXI Rule 97 of the Code of Civil Procedure, 1908. The impugned order shows that the Appellants i.e. the Obstructionists remained absent on the date on which the impugned order was passed though a reply was filed by the Obstructionists. The learned Judge has noted in the order that on earlier occasion adjournment was granted for settlement.

3. Considering the fact that the rights between the parties will have to be decided in the said Chamber Summons, in my

view, one opportunity deserves to be granted to the Appellants (the Obstructionists) to contest the Chamber Summons taken out by the first Respondent. However, a time bound schedule will have to be fixed so as to ensure that the execution of the decree is not delayed.

4. Hence, I pass the following order :

i) Impugned Judgment and Order is quashed and set aside and the Chamber Summons No.154 of 2002 in S.C.Suit No.52 of 1974 is restored to file. The Appellants and the first Respondent are directed to appear before the learned Judge of City Civil Court, Mumbai on 12th February 2007 at 11.00 a.m.

ii) The learned Judge will decide the Chamber Summons afresh in accordance with law as expeditiously as possible and preferably on or before 31st July 2007.

iii) It is made clear that the Appellants will not seek any adjournment on unreasonable ground and will cooperate with the learned trial Judge for expeditious disposal of the suit.

iv) All contentions of the parties are kept open.

v) Parties and the Trial Court to act upon an

authenticated copy of this order.

JUDGE